



Reprinted
April 1, 2009

ENGROSSED SENATE BILL No. 142

DIGEST OF SB 142 (Updated March 31, 2009 5:34 pm - DI 97)

Citations Affected: IC 27-7; noncode.

Synopsis: Commercial vehicle policies. Repeals a provision exempting commercial vehicle policies from requirements for the insurer to make available uninsured and underinsured motorist coverage. Limits the requirement in relation to certain commercial excess and umbrella policies to policies that cover motor vehicles. Amends provisions concerning rejection of the coverage.

Effective: July 1, 2009.

Steele, Waltz

(HOUSE SPONSORS — FRY, KOCH)

January 7, 2009, read first time and referred to Committee on Rules and Legislative Procedure.

February 12, 2009, amended; reassigned to Committee on Corrections, Criminal and Civil Matters.

February 19, 2009, reported favorably — Do Pass.

February 23, 2009, read second time, amended, ordered engrossed.

February 24, 2009, engrossed. Read third time, passed. Yeas 50, nays 0.

HOUSE ACTION

March 2, 2009, read first time and referred to Committee on Insurance.

March 19, 2009, amended, reported — Do Pass.

March 31, 2009, read second time, amended, ordered engrossed.

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April 1, 2009

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 142

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 27-7-5-2 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) **Except as provided in**
3 **subsection (d)**, the insurer shall make available, in each automobile
4 liability or motor vehicle liability policy of insurance which is
5 delivered or issued for delivery in this state with respect to any motor
6 vehicle registered or principally garaged in this state, insuring against
7 loss resulting from liability imposed by law for bodily injury or death
8 suffered by any person and for injury to or destruction of property to
9 others arising from the ownership, maintenance, or use of a motor
10 vehicle, or in a supplement to such a policy, the following types of
11 coverage:
12 (1) in limits for bodily injury or death and for injury to or
13 destruction of property not less than those set forth in IC 9-25-4-5
14 under policy provisions approved by the commissioner of
15 insurance, for the protection of persons insured under the policy
16 who are legally entitled to recover damages from owners or
17 operators of uninsured or underinsured motor vehicles because of

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bodily injury, sickness or disease, including death, and for the protection of persons insured under the policy who are legally entitled to recover damages from owners or operators of uninsured motor vehicles for injury to or destruction of property resulting therefrom; or

(2) in limits for bodily injury or death not less than those set forth in IC 9-25-4-5 under policy provisions approved by the commissioner of insurance, for the protection of persons insured under the policy provisions who are legally entitled to recover damages from owners or operators of uninsured or underinsured motor vehicles because of bodily injury, sickness or disease, including death resulting therefrom.

The uninsured and underinsured motorist coverages must be provided by insurers for either a single premium or for separate premiums, in limits at least equal to the limits of liability specified in the bodily injury liability provisions of an insured's policy, unless such coverages have been rejected in writing by the insured. However, underinsured motorist coverage must be made available in limits of not less than fifty thousand dollars (\$50,000). At the insurer's option, the bodily injury liability provisions of the insured's policy may be required to be equal to the insured's underinsured motorist coverage. Insurers may not sell or provide underinsured motorist coverage in an amount less than fifty thousand dollars (\$50,000). Insurers must make underinsured motorist coverage available to all existing policyholders on the date of the first renewal of existing policies that occurs on or after January 1, 1995, and on any policies newly issued or delivered on or after January 1, 1995. Uninsured motorist coverage or underinsured motorist coverage may be offered by an insurer in an amount exceeding the limits of liability specified in the bodily injury and property damage liability provisions of the insured's policy.

(b) Any named insured of an automobile or motor vehicle liability policy has the right, on behalf of all other named insureds, ~~and~~ all other insureds, **and all other persons entitled to coverage under the policy**, in writing, to:

- (1) reject both the uninsured motorist coverage and the underinsured motorist coverage provided for in this section; or
- (2) reject either the uninsured motorist coverage alone or the underinsured motorist coverage alone, if the insurer provides the coverage not rejected separately from the coverage rejected.

No insured may have uninsured motorist property damage liability insurance coverage under this section unless the insured also has uninsured motorist bodily injury liability insurance coverage under this

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section. Following rejection of either or both uninsured motorist coverage or underinsured motorist coverage, unless later requested in writing, the insurer need not offer uninsured motorist coverage or underinsured motorist coverage in or supplemental to a renewal or replacement policy issued to the same insured by the same insurer or a subsidiary or an affiliate of the originally issuing insurer. Renewals of policies issued or delivered in this state which have undergone interim policy endorsement or amendment do not constitute newly issued or delivered policies for which the insurer is required to provide the coverages described in this section.

(c) A rejection under subsection (b) must specify:

(1) that the named insured is rejecting the coverage on behalf of all other named insureds, all other insureds, and all other persons entitled to coverage under the policy;

(2) that the named insured is rejecting:

(A) the uninsured motorist coverage;

(B) the underinsured motorist coverage; or

(C) both the uninsured motorist coverage and the underinsured motorist coverage;

that would otherwise be provided under the policy; and

(3) the date on which the rejection is effective.

(d) Subsection (a) applies to a commercial excess or umbrella policy only if the commercial excess or umbrella policy provides coverage for losses that arise from the ownership, maintenance, or use of a motor vehicle. However, subsection (a) does not apply to a commercial excess or umbrella policy that is issued or delivered to a motor carrier (as defined in IC 8-2.1-17-10) that is in compliance with the minimum levels of financial responsibility set forth in 49 CFR Part 387.

SECTION 2. [EFFECTIVE JULY 1, 2009] (a) As used in this SECTION, "commercial vehicle policy" has the meaning set forth in IC 27-7-5-1.5, before its repeal by this act.

(b) IC 27-7-5-2, as amended by this act, applies to a commercial excess or umbrella policy that is issued, delivered, or renewed after June 30, 2009.

(c) IC 27-7-5-2, as amended by this act, applies to a commercial vehicle policy that is issued or delivered after June 30, 2009.

(d) An insurer shall make available to the policyholder of a commercial vehicle policy that is in effect on July 1, 2009, uninsured and underinsured motorist coverage as required by IC 27-7-5, as amended by this act, on the date of the first renewal of the commercial vehicle policy that occurs after June 30, 2009.

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1 (e) This SECTION expires July 1, 2014.

2 SECTION 3. [EFFECTIVE JULY 1, 2009] IC 27-7-5-2(b), as
3 amended by this act, applies to a case in which:

4 (1) a claim for coverage under a policy's uninsured motorist
5 coverage or underinsured motorist coverage arises after June
6 30, 2009;

7 (2) a rejection is made under IC 27-7-5-2, as amended by this
8 act, of the uninsured motorist coverage or underinsured
9 motorist coverage under which the claim described in
10 subdivision (1) is made; and

11 (3) the rejection described in subdivision (2) is made after
12 June 30, 2009.

13 SECTION 4. IC 27-7-5-1.5 IS REPEALED [EFFECTIVE JULY 1,
14 2009].

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COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 142, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to repeal a provision of the Indiana Code concerning insurance.

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill be reassigned to the Senate Committee on Corrections, Criminal and Civil Matters.

(Reference is to SB 142 as introduced.)

LONG, Chairperson

COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Senate Bill No. 142, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 142 as printed February 13, 2009.)

STEELE, Chairperson

Committee Vote: Yeas 8, Nays 2.

SENATE MOTION

Madam President: I move that Senate Bill 142 be amended to read as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

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Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 27-7-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) **As used in this section, "commercial vehicle policy" means an insurance policy that provides coverage for at least one (1) of the following:**

(1) A motor vehicle that is rated or insured as a business or commercial vehicle.

(2) A motor vehicle that is licensed by the state as a commercial vehicle.

(3) A commercial motor vehicle business, including an:

(A) individual who; or

(B) entity that;

is in the business or occupation of selling, repairing, servicing, storing, or parking motor vehicles, including a business that is a commercial garage operation, an automobile sales entity, a motor vehicle repair entity, a motor vehicle service station, or a public parking operation.

(4) A motor vehicle that is used as a public or private livery or a rental conveyance.

(5) A motor vehicle that is owned or used by a named insured that is not a natural person.

(b) Except and to the extent as provided in subsections (d) and (e), the insurer shall make available, in each automobile liability or motor vehicle liability policy of insurance which is delivered or issued for delivery in this state with respect to any motor vehicle registered or principally garaged in this state, insuring against loss resulting from liability imposed by law for bodily injury or death suffered by any person and for injury to or destruction of property to others arising from the ownership, maintenance, or use of a motor vehicle, or in a supplement to such a policy, the following types of coverage:

(1) in limits for bodily injury or death and for injury to or destruction of property not less than those set forth in IC 9-25-4-5 under policy provisions approved by the commissioner of insurance, for the protection of persons insured under the policy who are legally entitled to recover damages from owners or operators of uninsured or underinsured motor vehicles because of bodily injury, sickness or disease, including death, and for the protection of persons insured under the policy who are legally entitled to recover damages from owners or operators of uninsured motor vehicles for injury to or destruction of property resulting therefrom; or

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(2) in limits for bodily injury or death not less than those set forth in IC 9-25-4-5 under policy provisions approved by the commissioner of insurance, for the protection of persons insured under the policy provisions who are legally entitled to recover damages from owners or operators of uninsured or underinsured motor vehicles because of bodily injury, sickness or disease, including death resulting therefrom.

The uninsured and underinsured motorist coverages must be provided by insurers for either a single premium or for separate premiums, in limits at least equal to the limits of liability specified in the bodily injury liability provisions of an insured's policy, unless such coverages have been rejected in writing by the insured. However, underinsured motorist coverage must be made available in limits of not less than fifty thousand dollars (\$50,000). At the insurer's option, the bodily injury liability provisions of the insured's policy may be required to be equal to the insured's underinsured motorist coverage. Insurers may not sell or provide underinsured motorist coverage in an amount less than fifty thousand dollars (\$50,000). Insurers must make underinsured motorist coverage available to all existing policyholders on the date of the first renewal of existing policies that occurs on or after January 1, 1995, and on any policies newly issued or delivered on or after January 1, 1995. Uninsured motorist coverage or underinsured motorist coverage may be offered by an insurer in an amount exceeding the limits of liability specified in the bodily injury and property damage liability provisions of the insured's policy.

(b) Any named insured of an automobile or motor vehicle liability policy has the right, on behalf of all other named insureds and all other insureds, in writing, to:

- (1) reject both the uninsured motorist coverage and the underinsured motorist coverage provided for in this section; or
- (2) reject either the uninsured motorist coverage alone or the underinsured motorist coverage alone, if the insurer provides the coverage not rejected separately from the coverage rejected.

No insured may have uninsured motorist property damage liability insurance coverage under this section unless the insured also has uninsured motorist bodily injury liability insurance coverage under this section. Following rejection of either or both uninsured motorist coverage or underinsured motorist coverage, unless later requested in writing, the insurer need not offer uninsured motorist coverage or underinsured motorist coverage in or supplemental to a renewal or replacement policy issued to the same insured by the same insurer or a subsidiary or an affiliate of the originally issuing insurer. Renewals

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of policies issued or delivered in this state which have undergone interim policy endorsement or amendment do not constitute newly issued or delivered policies for which the insurer is required to provide the coverages described in this section.

(c) If any named insured rejects in writing the coverage described in subsection (b), the rejection of coverage applies to every other:

- (1) named insured; and**
- (2) insured.**

It is not necessary that each named insured or other insured reject the coverage described in subsection (b) in writing or sign the written rejection of coverage.

(d) This subsection applies only to a commercial vehicle policy. An insurer is required to offer only the coverage described in subsection (b) as part of a commercial vehicle policy that provides coverage for a vehicle. The coverage offered by an insurer under subsection (b) as part of a commercial vehicle policy is required to cover only a loss that results from the operation of a motor vehicle.

(e) An insurer is not required to offer coverage described in subsection (b) in connection with the issuance of a commercial umbrella or excess liability policy."

Renumber all SECTIONS consecutively.

(Reference is to SB 142 as printed February 20, 2009.)

STEELE

COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, to which was referred Senate Bill 142, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 2, delete "As used in this section," and insert "**Except as provided in subsection (c),**".

Page 1, delete lines 3 through 17.

Page 2, delete lines 1 through 4.

Page 2, line 5, delete "(e),".

Run in page 1, line 2, through page 2, line 5.

Page 3, delete lines 28 through 42, begin a new paragraph and insert:

"(c) Subsection (a) applies to a commercial excess or umbrella

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policy only if the commercial excess or umbrella policy provides coverage for losses that arise from the ownership, maintenance, or use of a motor vehicle.

SECTION 2. [EFFECTIVE JULY 1, 2009] (a) As used in this SECTION, "commercial vehicle policy" has the meaning set forth in IC 27-7-5-1.5, before its repeal by this act.

(b) IC 27-7-5-2, as amended by this act, applies to a commercial excess or umbrella policy that is issued, delivered, or renewed after June 30, 2009.

(c) IC 27-7-5-2, as amended by this act, applies to a commercial vehicle policy that is issued or delivered after June 30, 2009.

(d) An insurer shall make available to the policyholder of a commercial vehicle policy that is in effect on July 1, 2009, uninsured and underinsured motorist coverage as required by IC 27-7-5, as amended by this act, on the date of the first renewal of the commercial vehicle policy that occurs after June 30, 2009.

(e) This SECTION expires July 1, 2014."

Page 4, delete lines 1 through 2.

Page 4, line 3, delete "THE FOLLOWING ARE" and insert "IC 27-7-5-1.5 IS".

Page 4, line 4, delete ": IC 27-7-5-1.5; P.L.72-2005, SECTION 2." and insert ".".

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 142 as reprinted February 24, 2009).

FRY, Chair

Committee Vote: yeas 7, nays 4.

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 142 be amended to read as follows:

Page 1, line 3, delete "(c)," and insert "(d),".

Page 2, line 32, after "insureds" insert ",".

Page 2, line 32, strike "and".

Page 2, line 33, after "insureds," insert "**and all other persons entitled to coverage under the policy,**".

Page 3, line 10, after "(c)" insert "**A rejection under subsection (b) must specify:**

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- (1) that the named insured is rejecting the coverage on behalf of all other named insureds, all other insureds, and all other persons entitled to coverage under the policy;**
- (2) that the named insured is rejecting:**
 - (A) the uninsured motorist coverage;**
 - (B) the underinsured motorist coverage; or**
 - (C) both the uninsured motorist coverage and the underinsured motorist coverage;**
- that would otherwise be provided under the policy; and**
- (3) the date on which the rejection is effective.**
- (d)".**

Page 3, line 13, after "." insert **"However, subsection (a) does not apply to a commercial excess or umbrella policy that is issued or delivered to a motor carrier (as defined in IC 8-2.1-17-10) that is in compliance with the minimum levels of financial responsibility set forth in 49 CFR Part 387."**

Page 3, between lines 27 and 28, begin a new paragraph and insert:
"SECTION 4. [EFFECTIVE JULY 1, 2009] IC 27-7-5-2(b), as amended by this act, applies to a case in which:

- (1) a claim for coverage under a policy's uninsured motorist coverage or underinsured motorist coverage arises after June 30, 2009;**
- (2) a rejection is made under IC 27-7-5-2, as amended by this act, of the uninsured motorist coverage or underinsured motorist coverage under which the claim described in subdivision (1) is made; and**
- (3) the rejection described in subdivision (2) is made after June 30, 2009."**

Renumber all SECTIONS consecutively.

(Reference is to ESB 142 as printed March 20, 2009.)

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